

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**MARRY DIMAS; FRANK A. SANCHEZ, SR.;
FRANK A. SANCHEZ, JR.,**

Plaintiff,

vs.

No. 19-872

**PAT SALAZAR; ANTHONY MORALES;
MONTY YAZZIE; JONATHAN TODACHINE;
MCKINLEY COUNTY SHERIFF'S OFFICE;
and, UNKNOWN PERSONS 1-100,**

Defendants.

NOTICE OF REMOVAL

Defendants, Anthony Morales, Monty Yazzie; Jonathan Todachine, by and through counsel, the New Mexico Association of Counties (Brandon Huss, Nick Autio and Mark Drebing), state the following for their Notice of Removal:

1. Pursuant to 28 U.S.C. §§ 1331, 1441, 1443, and 1446, Defendants exercise their right to remove this action from the Eleventh Judicial District, County of McKinley, State of New Mexico, where the case is now pending by the name and style of *MARRY DIMAS; FRANK A. SANCHEZ, SR.; FRANK A. SANCHEZ, JR., v. PAT SALAZAR; ANTHONY MORALES; MONTY YAZZIE; JONATHAN TODACHINE; MCKINLEY COUNTY SHERIFF'S OFFICE; and, UNKNOWN PERSONS 1-100*, Eleventh Judicial District Court No. D-1113-CV-2018-00473. Plaintiffs' action, upon information and belief, arises out of alleged violations of the Fourth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

2. This Court has original jurisdiction as provided in 28 U.S.C. § 1331 in that the cause arises under the Constitution and laws of the United States brought pursuant to 42 U.S.C. § 1983 in the First Cause of Action of Plaintiffs' Complaint.
3. On August 24, 2019, Plaintiffs attempted to affect service on named Defendants by certify mailing summonses and a copy of Plaintiffs' Complaint to the McKinley County Sheriff's Office.
4. Plaintiffs' attempt to achieve service of process did not comply with the requirements of Rule 1-004 NMRA or Fed. R. Civ. P. 4.
5. Nonetheless, because Anthony Morales, Monty Yazzie, Jonathan Todachine, McKinley County Sheriff's Office and Pat Salazar have been put on notice of Plaintiffs' claims they hereby exercise their right to remove this claim to the federal court.
6. No other defendant appears to have been served at this time.
7. This Notice of Removal is timely filed in accordance with the requirements of 28 U.S.C. § 1446(b).
8. Pursuant to the requirements of 28 U.S.C. § 1446, Defendants attach, and incorporate by reference, copies of the following pleadings served on the Defendants in this action:
 - A. Complaint (Exhibit A);
 - B. Summons (Exhibit B); and
 - C. Copy of the NMCourts.com lookup page (Exhibit C).
9. Defendants desire and are entitled to have this cause removed from the Eleventh Judicial District Court, County of McKinley, State of New Mexico.
10. Written notice of the filing of this Notice is being sent contemporaneously to Plaintiffs as required by law.

11. A true and accurate copy of this notice will be filed with the clerk of the Eleventh Judicial District Court, County of McKinley, State of New Mexico, as required by law.

Respectfully submitted,

NEW MEXICO ASSOCIATION OF COUNTIES

By: /s/ Mark Drebing
BRANDON HUSS
NICK AUTIO
MARK DREBING
111 Lomas Blvd., N.W., Ste. 424
Albuquerque, NM 87102
(505) 820-8116
bhuss@nmcounties.org
mdrebing@nmcounties.org
nautio@nmcounties.org
Attorneys for Defendants

I HEREBY CERTIFY that on the 20th day of September, 2019,
I caused the foregoing Notice of Removal to be served via
electronic means on all counsel of record and to be filed with the
New Mexico state district court.

/s/ Mark Drebing
MARK DREBING